

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

751J0687

## SENATE BILL NO. 137

Introduced by: Senators Bogue, McCracken, and Sutton (Dan) and Representatives Rounds,  
McCaulley, Miles, and Solum

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to assets allowed in the  
2 determination of the financial condition of an insurer.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-26-1 be amended to read as follows:

5 58-26-1. In any determination of the financial condition of an insurer, there shall be allowed  
6 as assets only such assets as are owned by the insurer and which consist of:

7 (1) Cash in the possession of the insurer, or in transit under its control, and including the  
8 true balance of any deposit in a solvent bank or trust company;

9 (2) Investments, securities, properties, and loans acquired or held in accordance with this  
10 title and in connection therewith the following items:

11 (a) Interest due or accrued on any bond or evidence of indebtedness which is not  
12 in default and which is not valued on a basis including accrued interest;

13 (b) Declared and unpaid dividends on shares of stock, unless such amount has  
14 otherwise been allowed as an asset;

15 (c) Interest due or accrued upon a collateral loan in an amount not to exceed one



1 year's interest thereon;

2 (d) Interest due or accrued on deposits in solvent banks and trust companies, and  
3 interest due or accrued on other assets, if such interest is in the judgment of the  
4 director a collectible asset;

5 (e) Interest due or accrued on a mortgage loan, in an amount not exceeding in any  
6 event the amount, if any, of the excess of the value of the property less  
7 delinquent taxes thereon over the unpaid principal; but in no event may  
8 interest accrued for a period in excess of eighteen months be allowed as an  
9 asset;

10 (f) Rent due or accrued on real property if such rent is not in arrears for more than  
11 three months, and rent more than three months in arrears if the payment of  
12 such rent be adequately secured by property held in the name of the tenant and  
13 conveyed to the insurer as collateral;

14 (g) The unaccrued portion of taxes paid prior to the due date on real property;

15 (3) Premium notes, policy loans, and other policy assets and liens on policies and  
16 certificates of life insurance and annuity contracts and accrued interest thereon, in an  
17 amount not exceeding the legal reserve and other policy liabilities carried on each  
18 individual policy;

19 (4) The net amount of uncollected and deferred premiums and annuity considerations in  
20 the case of a life insurer;

21 (5) Premiums in the course of collection, other than for life insurance, not more than  
22 three months past due, less commissions payable thereon. The foregoing limitation  
23 does not apply to premiums payable directly or indirectly by the United States  
24 government or by any of its instrumentalities;

- 1       (6)   Installment premiums other than life insurance premiums to the extent of the  
2            unearned premium reserve carried on the policy to which premiums apply;
- 3       (7)   Notes and like written obligations not past due, taken for premiums other than life  
4            insurance premiums, on policies permitted to be issued on such basis, to the extent  
5            of the unearned premium reserves carried thereon;
- 6       (8)   The full amount of reinsurance recoverable by a ceding insurer from a solvent  
7            reinsurer and which reinsurance is authorized under this title;
- 8       (9)   Amounts receivable by an assuming insurer representing funds withheld by a solvent  
9            ceding insurer under a reinsurance treaty;
- 10      (10)  Deposits or equities recoverable from underwriting associations, syndicates, and  
11            reinsurance funds, or from any suspended banking institution, to the extent deemed  
12            by the director available for the payment of losses and claims and at values to be  
13            determined by the director;
- 14      (11)  Data and word processing machines used in the insurer's business. However, the  
15            original cost of the system shall be at least one thousand dollars but may not be more  
16            than three percent of the admitted assets of the insurer. Such cost shall be amortized  
17            over a period not to exceed five years;
- 18      (12)  All assets, whether or not consistent with the provisions of this section, as may be  
19            allowed pursuant to the annual statement form approved by the director for the kinds  
20            of insurance to be reported upon therein;
- 21      (13)  Goodwill arising from acquisitions and mergers occurring after January 1, 2001;
- 22      (14)  Other assets, not inconsistent with the provisions of this section, deemed by the  
23            director to be available for the payment of losses and claims at values to be  
24            determined by the director.

Section 2. That § 58-26-10 be amended to read as follows:

58-26-10. In addition to assets impliedly excluded by other provisions of this title, the following expressly may not be allowed as assets in any determination of the financial condition of an insurer:

- (1) Goodwill, except goodwill permitted by § 58-26-1, trade names, and other like intangible assets;
- (2) Advances to officers, other than policy loans, whether secured or not, and advances to employees, representatives, insurance producers, and other persons on personal security only;
- (3) Stock of such insurer, owned by it, or any material equity therein or loans secured thereby, or any material proportionate interest in such stock acquired or held through the ownership by such insurer of an interest in another firm, corporation, or business unit;
- (4) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature, and supplies, except in the case of title insurers such materials and plants as the insurer is expressly authorized to invest in under this title and except, in the case of any insurer, such personal property as the insurer is permitted to hold pursuant to this title, or which is acquired through foreclosure of chattel mortgages or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer other than real estate used by it for home office, branch office, and similar purposes;
- (5) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this title.